

REMARKS

The Official Action mailed August 25, 2004, entirely in the nature of a restriction requirement, has been carefully reviewed. The claims in the application are now only elected claims 1-6.

Applicants have claimed priority from their corresponding application filed in Japan, and have also filed a certified copy of such Japanese priority application. Accordingly, the applicant respectfully requests acknowledgement by the PTO of the receipt of applicant's papers filed under Section 119.

The PTO has required restriction between what it considers to be two (2) patentably distinct inventions, namely (I) the light emitting diode, and (II) the method of making such light emitting diode. Applicant accepts the restriction requirement as being correct, and therefore elects Group I without traverse.

Consequently, applicants have now deleted the Group II claims entirely **without prejudice**, applicants reserving and relying on their rights, including those rights provided by Sections 121, 120 and 119. In other words, applicant explicitly does not abandon the method claims, cancelled above.


Appln. No. 10/706,284
Reply dated September 23, 2004
Reply to Office Action of August 25, 2004

For the record, there is an error in the restriction requirement as stated in the Office Action. It is claims 1-6 (not claims 1-7) which fall within Group I; and it is claims 7-9, not just claims 8 and 9, which are directed to the method and fall within Group II. Applicant assumes that the error in the Official Action was inadvertent, and that the PTO agrees that claims 7 belongs with Group II, as claim 7 is directed to a method.

Applicant now respectfully awaits receipt of the results of a first examination on the merits.

Respectfully submitted,

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